

FILED

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

AUG 20 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ROBERT C. BARKINS,
Plaintiff(s),

No. CV 08-03810 VRW

v.

U.S. BANK N.A.,

Defendant(s).

**ORDER RE:
APPLICATION TO PROCEED
IN FORMA PAUPERIS**

Pursuant to Civil LR 3-10, the application of plaintiff(s) in this action to proceed in forma pauperis is before the court for review. The court has considered the application and has carefully reviewed the complaint pursuant to 28 USC § 1915(e)(2).

IT IS ORDERED that leave to proceed in forma pauperis is:

☐ GRANTED and the clerk shall issue summons. IT IS FURTHER ORDERED, pursuant to 28 USC § 1915(d), that the U.S. Marshal for the Northern District of California serve, without prepayment of fees, a copy of the summons, complaint and any amendments or attachments, scheduling orders, plaintiff's affidavit and this order upon defendant(s). You must provide the Marshal with the names and current addresses of each of the defendants. It is your responsibility to ensure that the Marshal has sufficient information to identify and effect service upon each of the defendants. If the Marshal is unable to effect service of the summons and complaint upon a defendant within 120 days after the filing of the complaint through no fault of his own (for example, because you failed to provide sufficient information about the defendant or because the defendant is not where you claim), your action will be dismissed as to that defendant without prejudice under Federal Rule of Civil Procedure 4(m). This order does not relieve the court of its continuing obligation to dismiss the case if the court determines that the allegation of poverty is untrue, or that the action is frivolous or malicious, fails to state a claim on which relief may be granted or seeks monetary relief against a defendant who is immune from such relief.

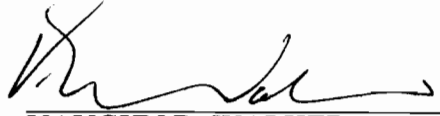
☐ DENIED and the plaintiff(s) shall pay the filing fee of \$350.00 or make a partial payment of \$ _____ no later than 30 days from the date of this order. Failure to pay the filing fee by that date will result in dismissal of the action without prejudice. The clerk shall provide plaintiff(s) a copy of Rule 4 of the Federal Rules of Civil Procedure. It is your responsibility to obtain a summons from the clerk and to effect service of the summons and complaint in accordance with Rule 4 of the Federal Rules of Civil Procedure. Failure to do so will result in dismissal of your case. This order does not relieve the court of its continuing obligation to dismiss the case if the court determines that the allegation of poverty is untrue, or that the action is frivolous or malicious, fails to state a claim on which relief may be granted or seeks monetary relief against a defendant who is immune from such relief.

//
//
//
//
//

- ☒ DENIED and the action is DISMISSED pursuant to 28 USC § 1915(e)(2)(B) based on
the court's determination that the action
☐ is frivolous or malicious
☒ fails to state a claim on which relief may be granted
☐ seeks monetary relief against a defendant who is immune from such relief.

The clerk shall terminate all pending motions and close the file.

IT IS SO ORDERED.



VAUGHN R. WALKER
United States District Chief Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

BARKINS,

Plaintiff,

v.

U.S. BANK N.A. et al,

Defendant.

Case Number: C08-3810 VRW

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on August 20, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Robert C. Barkins
1955 San Pablo Ave., Apt. 504B
Oakland, CA 94612

Dated: August 20, 2008

Richard W. Wieking, Clerk
By: Cora Klein, Deputy Clerk

Cora Klein